

What You Need To Know...About Exporting CITES Bred-in-Captivity Wildlife

Captive breeding of wildlife is an important source of animals for pet owners, hobbyists, breeders, zoos, researchers, and commercial dealers. If you plan to export captive-bred wildlife, take a few minutes to become acquainted with wildlife laws and regulations that may affect you.

What is CITES and How Does It Apply to Me? To ensure that commercial demand does not threaten their survival in the wild, many wildlife species are protected by CITES, a treaty that regulates trade in listed species, including hybrids and captive-bred specimens, through a system of permits. Under CITES, a species is listed at one of three levels of protection, which have different permit requirements:

Appendix I includes species threatened with extinction that are or may be affected by trade. Import is prohibited for primarily commercial purposes. Shipment requires both export and import permits, issued only when the purpose of the import or export will not be detrimental to the species' survival and the specimens were legally acquired. Export to an importer establishing a breeding program to sell offspring is considered a commercial purpose.

Appendix II includes species that may become threatened with extinction if trade is not regulated. Specimens require an export permit, issued for any purpose as long as the export will not be detrimental to the species' survival and specimens were legally acquired.

Appendix III includes species listed by their range countries to obtain international cooperation in controlling trade. Export of specimens born in the United States requires a Certificate of Origin.

Export permits for any CITES-listed live specimens may be issued only when the applicant demonstrates that the animals will be humanely shipped, i.e., if by air, the shipment meets the International Air Transport Association (IATA) Live Animals Regulations.

The Office of Management Authority administers CITES in the United States and processes applications for permits. You may apply for the permits described above. In addition, there are further permit options for specimens that qualify as *bred in captivity* as defined by CITES.

What is Bred in Captivity under CITES? The terms *captive-born* or *captive-hatched* and *captive-bred* are often used interchangeably, but there is a difference. *Captive-born* or *captive-hatched* describes animals born or hatched in captivity, but whose parents may have mated in the wild, i.e., when a wild-caught female is pregnant at the time she is placed in captivity, or when eggs are collected from the wild, then hatched in captivity. Generally, *captive-bred* describes animals that were born or hatched in captivity and whose parents mated in captivity.

CITES countries have agreed that wildlife may be considered *bred-in-captivity* only if the exporting country finds that the animals meet the following strict criteria:

- The parental breeding stock was: (1) legally acquired, (2) established in a manner not detrimental to the species survival in the wild, and (3) maintained without the addition of wild-caught animals, except for occasional addition of animals to prevent or alleviate deleterious inbreeding and for other exceptional circumstances; and
- The captive-breeding program has **reliably produced** offspring to at least the second generation in a controlled environment or is managed in a manner demonstrated to result in the reliable production of second-generation offspring in a controlled environment. Some second-generation specimens do not qualify under CITES as bred-in-captivity because the breeding program does not produce sufficient offspring to maintain the diversity of the captive stock.

For Appendix II and III species that meet the above criteria, the Service may issue a Bred-in-captivity Certificate (formerly issued as a Captive-bred Certificate). However, for Appendix I species, additional restrictions apply.

What About Captive Breeding of CITES Appendix I Species? Requirements differ, depending on whether or not the animal was bred for commercial purposes:

- *Bred for non-commercial purposes:* If the Service finds that the specimen was bred for non-commercial purposes and meets the bred-in-captivity criteria outlined above, it issues a Bred-in-captivity Certificate,

eliminating the need for an Appendix I import permit under CITES. However, some countries have domestic legislation that requires an import permit. You need to contact the CITES Management Authority in the country of import to meet their requirements prior to export (addresses available from OMA).

- **Bred for commercial purposes:** Such trade is prohibited under CITES, except when the facility is registered with the CITES Secretariat. Breeding stock must meet bred-in-captivity criteria for a facility to be eligible for registration. Once a facility is registered, such animals are treated as if they were in Appendix II -- that is, they can be exported for commercial use by the importer with an export permit. No separate CITES import permit is required. However, contact the country of import to meet their requirements.

How Can I Show that My Animals Are Captive-bred? Keep good records. For applications involving exporting captive-bred specimens, OMA may require information on:

- How, when, and where parental stock was obtained, and documentation to show its legal origin -- obtain a receipt for your purchase and documentation showing source of specimens and parental stock. Additional information may be required for species subject to significant levels of illegal international trade.
- Inventory of captive population that shows the number of animals by sex and age- or size-class.
- Annual production (eggs laid, young born or hatched, young reared to independence) and mortalities within captive population.
- Number of animals sold or transferred annually.
- Number of animals added to the breeder's captive population from another source.
- Transaction records (i.e., date, quantity of animals, name and address of seller, and a list of previous owners, with a complete history of transactions back to the breeder or importer. For imported animals, try to obtain and keep a copy of the CITES permit and wildlife import declaration).

You may need to permanently mark your animals to track them, as well as make available photographs or videos of the captive propagation program and facilities, including activities during nesting and production and rearing of young. Additional information may be requested if you are breeding for commercial purposes and are applying to register your facility.

Does Buying Young Animals Provide Any Assurance that They Are Captive-bred or of Legal Origin?

Unfortunately, no. Young animals or eggs could have been removed from the wild. Their small size makes them easier to conceal and trade illegally. Captive-bred animals are not of legal origin if one of the parents was obtained illegally. You can help conservation efforts by finding out the source of the animals you purchase and refusing to buy questionable stock.

How Do I Apply for CITES Permits? Complete a standard application form (3-200) and submit it with a \$25 processing fee to the Office of Management Authority. Allow at least 60 days for review. Also contact your State wildlife conservation agency and the CITES Management Authority of the importing country to determine any additional requirements. Some species that are protected under CITES are also protected by other U.S. laws under which permit requirements may be more stringent, i.e., Migratory Bird Treaty Act and Eagle Protection Act.

Is the Species Also Listed under the U.S. Endangered Species Act? The Act provides strong measures to help alleviate species and habitat loss. It places restrictions on a wide range of activities involving endangered or threatened species. Permits must be obtained for such activities as interstate and foreign commerce, import, and export, and be issued only when the activity helps conserve the species in the wild. The use of listed species for pet purposes is not consistent with this purpose.



For Further Information Contact: Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203, phone 703-358-2104 or 1-800-358-2104, fax 703-358-2281; internet <http://www.fws.gov/~9dia/index.html> (8/97)



FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION FORM

RETURN TO:

Office of Management Authority
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive, Room 700
Arlington, VA 22203
1-800-358-2104 or 703-358-2104

Type of Activity:

EXPORT OF LIVE CAPTIVE-BORN ANIMALS
(Convention on International Trade in Endangered Species)

A. COMPLETE IF APPLYING AS AN INDIVIDUAL			
1. Name:			
2. Street address:			3. County:
4. City, State, Zip code:			
5. Date of birth:	6. Social Security No.:	7. Occupation:	
8. List any business, agency, organizational, or institutional affiliation associated with the wildlife to be covered by this license or permit:			
9. Home telephone number:	10. Work telephone number:	11. Fax number:	12. E:mail address:

B. COMPLETE IF APPLYING AS A BUSINESS, CORPORATION, PUBLIC AGENCY OR INSTITUTION			
1. Name of business, agency or institution:			2. Tax identification no.:
3. Street address:			4. County:
5. City, State, Zip code:			
6. Describe the type of business, agency, or institution:			
7. Name and title of person responsible for permit (president, principal officer, director, etc.):			
8. Home telephone number:	9. Work telephone number:	10. Fax number:	11. E:mail address:

C. ALL APPLICANTS COMPLETE	
1. Do you currently have or have you had any Federal Fish and Wildlife License or Permit? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, list license or permit numbers:	
2. Have you obtained any required state or foreign government approval to conduct the activity you propose? Yes <input type="checkbox"/> No <input type="checkbox"/> Not required <input type="checkbox"/> If yes, provide a copy of the license or permit.	
3. Enclose check or money order payable to the U.S. FISH AND WILDLIFE SERVICE in the amount of \$25. Institutions which qualify under 50 CFR 13.11(d)(3) may be exempt from fees.	
4. ATTACHMENTS: Complete the additional pages of this application. Application will not be considered complete without these pages. Incomplete applications may be returned.	
5. CERTIFICATION: I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a license or permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. 1001.	
6. Signature (in ink) of applicant or person responsible for permit in Block A or B	7. Date:

D. EXPORT OF LIVE CAPTIVE-BORN ANIMALS (*Convention on International Trade in Endangered Species*)

1. Provide the following for EACH animal to be exported (if you need additional space please attach an inventory on a separate sheet of paper):

<i>Scientific name (genus and species)</i>	<i>Common name</i>	<i>Birth/hatch date</i>	<i>Sex</i>	<i>Description (I.D. #, tattoo #, tag #, size, house name, distinguishing features, etc.)</i>
(a) _____	_____	_____	_____	_____
(b) _____	_____	_____	_____	_____
(c) _____	_____	_____	_____	_____

2. If you are the **breeder**, sign (in ink) the following statement: I hereby certify that the animals listed above ____ (all or specify a.,b.,c., etc.) to be exported were bred in captivity from my parental stock at my facility listed below (additional information on the parental stock may be requested upon receipt of your application):

Breeder's signature: _____ Date: _____

Name of facility: _____

Street: _____

City/State: _____

3. If you are **NOT the breeder** of the wildlife, provide the following: (a) a signed statement from the breeder or breeder's records that includes birth or hatch date, sex, identifying number (e.g., tag, tattoo, etc.) or features, and complete name and address of the facility; and (b) copies of the invoice or other documentation showing that you acquired the wildlife from the breeder or the history of multiple transactions. Additional information on the parental stock may be requested upon receipt of your application.

4. Recipient: Name: _____
 Address: _____
 Foreign country: _____

5. a. Describe the type, size, and construction of any shipping container: _____

b. Describe the arrangements for watering or otherwise caring for the wildlife during transport: _____

NOTE: If you need additional space please attach a separate piece of paper. If shipping by air, you must comply with the **International Air Transportation Association (IATA)** regulations (contact airline for information).

6. List the **U.S. port** through which the export will occur. If no port is indicated, export must be through a designated port for wildlife (see enclosed list).
7. For CITES **Appendix-I species**, provide a copy of the CITES import permit issued by the Management Authority of the country to which you plan to export the wildlife (country of recipient in no. 4 above).
8. Attach copies of any applicable **State permits or licenses** (contact your State for information).

PERMIT APPLICATION FORM INSTRUCTIONS

The following instructions pertain to the standard License/Permit Form 3-200 that must be completed as an application for a U.S. Fish and Wildlife Service permit. Please read the General Permit Procedures (50 CFR 13) sent with this package.

- * Complete all appropriate blocks/lines. Print clearly or type in the information. *A complete application prevents delays!*
- * Sign the application *in ink* and send an *original* to the address on the top of the application. Faxed copies will not be accepted.
- * Applications will be processed in the order they are received.

Most of the application form is self-explanatory, but the following provides some further assistance for completing the form.

COMPLETE EITHER BLOCK A OR BLOCK B:

- Block A. **"Complete if applying as an individual"** - Enter the complete name of the responsible party who will be the permittee if a permit is issued. Enter personal information that identifies the applicant. All blocks must be completed. If you are applying on behalf of a client, the personal information must pertain to the client. A notarized document stating power of attorney must be included with the application.
- Block B. **"Complete if applying as a business, corporation, public agency or institution"** - Enter the complete name and address of the business, agency or institution who will be the permittee if a permit is issued. Give a brief description of the type of business the applicant is engaged in, the name and phone number of the person in charge, and if the company is incorporated, the state in which it was incorporated.

ALL APPLICANTS COMPLETE BLOCK C:

- Block C.1 **"Do you currently have or have had any Federal Fish and Wildlife license or permits?"** - List the number of any FWS or CITES permits. If applying for a renewal, the original permit must be returned with this application.
- Block C.2 **"Have you obtained any required state or foreign government approval to conduct the activity you propose?"** - If the proposed activity is regulated, check the appropriate box. If "yes", list the State or foreign countries involved and type of document required. Include a copy of these documents with the application. If "no" indicate what steps you have taken to secure approval (use attachment if necessary). If the proposed activity is not regulated check "not required".
- Block C.3 **"Check or money order (if applicable)"** - There is a permit processing fee unless you are fee exempt. Consult the enclosed APPLICATION PROCESSING FEE SCHEDULE information. Make the check or money order payable to the **U.S. Fish and Wildlife Service** and attach it to the application form. If fee exempt, write "exempt" in this space.
- Block C.4 **"Attachments"** - Consult the fact sheet or regulation. Provide any required additional information outlined on the supplemental page(s) of the application form. Be as complete and descriptive as possible. If there is any doubt as to the information's relevance, include it with the application. An incomplete or unclear application may cause delays in processing.
- Block C.5 **"CERTIFICATION"** - The **individual applicant in Block A, the person named in Block B, or person with power of attorney must sign and date** the application in ink. This signature binds that person to the statement of certification. This means that you certify that you read and understood the regulations that apply to the permit. You also certify that everything included in the application is true to the best of your knowledge. Be sure to read the statement and re-read the application before signing.

Application for a Federal Fish and Wildlife License/Permit

PRIVACY ACT - NOTICE

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), please be advised that:

The gathering of information on fish and wildlife is authorized by: (a) Bald Eagle Protection Act (16 U.S.C. 663a); (b) Endangered Species Act of 1973 (16 U.S.C. 1539); (c) Migratory Bird Treaty Act (16 U.S.C. 703-711); (d) Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383); (e) Wild Bird Conservation Act (16 U.S.C. 4901-4916); (f) Lacey Act (18 U.S.C. 42 & 44); and (g) Title 50, Part 13, of the Code of Federal Regulations.

Submission of requested information is required in order to process applications for licenses or permits authorized under the above acts. With the exception of your social security number, failure to provide all requested information will be sufficient cause for the U.S. Fish and Wildlife Service to deny a permit.

Applications for license or permits authorized under the Endangered Species Act of 1973 (16 U.S.C. 1539) and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371-1383) will be published in the **Federal Register** as required by the two acts.

In the event a violation of a statute, regulations, rule, order, or license, whether civil, criminal, or regulatory in nature is discovered during the application review process, the requested information may be transferred to the appropriate Federal, State, local, or foreign agency charged with investigating or prosecuting such violations.

In the event of litigation involving the records or the subject matter of the records, the requested information may be transferred to the U.S. Department of Justice or appropriate law enforcement authorities.

Information provided in the application may be disclosed to subject matter experts, and State and other Federal agencies, for the sole purpose of obtaining advice relevant to issuance of the permit.

For individuals, personal information such as home address and telephone number, financial data, and personal identifiers (social security number, birth date, etc.) will be removed prior to any release of the application.

FREEDOM OF INFORMATION ACT - NOTICE

For organizations, businesses, or individuals operating as a business (i.e., permittees not covered by the Privacy Act), we request that you identify any information that should be considered privileged and confidential business information to allow the Service to meet its responsibilities under FOIA. Confidential business information must be clearly marked "Business Confidential" at the top of the letter or page and each succeeding page, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary and remaining documents may be made available to the public under FOIA [43 CFR 2.13(c)(4), 43 CFR 2.15(d)(1)(i)].

APPLICATION PROCESSING FEE

The fee to process a permit application is \$25.00. Checks should be made payable to "U.S. Fish and Wildlife Service". The fee applies to permit applications, renewals, and amendments. The processing fees shall not be refunded if the permit is issued or denied, or if the application is abandoned.

The fee schedule does not apply to any Federal, State, or local government agency or individual or institution under contract to such agency for the proposed activities. Until further notice, the fee will be waived for public institutions. As defined in CFR 10.12 - "Public as used in referring to museums, zoological parks, and scientific or educational institutions, refers to such as are open to the general public and are either established, maintained, and operated as a governmental service or are privately owned and organized, but not operated for a profit."

APPLICATION PROCEDURES -- EXCERPTS FROM 50 CFR 13 -- GENERAL PERMIT PROCEDURES

Subpart A -- Introduction

§ 13.1 General.

Each person intending to engage in an activity for which a permit is required by this subchapter B shall, before commencing such activity, obtain a valid permit authorizing such activity. Each person who desires to obtain the permit privileges authorized by this subchapter must make application for such permit in accordance with the requirements of this part 13 and the other regulations in this subchapter which set forth the additional requirements for the specific permits desired. If the activity for which permission is sought is covered by the requirements of more than one part of this subchapter, the requirements of each part must be met. If the information required for each specific permitted activity is included, one application will be accepted for all permits required, and a single permit will be issued.

§ 13.2 Purpose of regulations.

The regulations contained in this part provide uniform rules, conditions, and procedures for the application for and the issuance, denial, suspension, revocation, and general administration of all permits issued pursuant to this subchapter B.

§ 13.3 Scope of regulations.

The provisions in this part are in addition to, and are not in lieu of, other permit regulations of this subchapter and apply to all permits issued thereunder, including "Import and Marking" (part 14), "~~Feather Imports~~" ["Wild Bird Conservation"] (part 15), "Injurious Wildlife" (part 16), "Endangered Wildlife and Plants" (part 17), "Marine Mammals" (part 18), "Migratory Birds" (part 21), "Eagles" (part 22) and "Endangered Species Convention" (part 23). As used in this part 13, the term "permit" shall refer to either a license, permit, or certificate as the context may require.

§ 13.4 Emergency variation from requirements.

The Director may approve variations from the requirements of this part when he finds that an emergency exists and that the proposed variations will not hinder effective administration of this subchapter B, and will not be unlawful.

Subpart B -- Application for Permits

§ 13.11 Application procedures.

The Service may not issue a permit for any activity authorized by this subchapter B unless the applicant has filed an application in accordance with the following procedures. Applicants do not have to submit a separate application for each permit unless otherwise required by this subchapter.

(a) *Forms.* Applications must be submitted in writing on a Federal Fish and Wildlife License/Permit Application (Form 3-200) or as otherwise specifically directed by the Service.

(b) *Forwarding instructions.* Applications for permits in the following categories should be forwarded to the issuing office indicated below.

(1) Migratory bird banding permits (50 CFR 21.22) -- Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Maryland 20708. (Special application forms must be used for bird banding permits. They may be obtained by writing to the Bird Banding Laboratory).

(2) Exception to designated port (50 CFR part 14), import/export license (50 CFR 14.93), migratory bird permit, other than banding (50 CFR part 21) and Bald or Golden eagle permits (50 CFR part 22) -- Assistant Regional Director for Law Enforcement of District in which the applicant resides (see 50 CFR 10.22 for addresses and boundaries of the Law Enforcement Districts).

(3) ~~Feather quota~~ [Wild bird conservation] (50 CFR part 15), injurious wildlife (50 CFR part 16), endangered and threatened species (50 CFR part 17), marine mammal (50 CFR part 18) and permits and certificates for the Convention on International Trade in Endangered Species (CITES) (50 CFR part 23) -- U.S. Fish and Wildlife Service, ~~Federal Wildlife Permit Office, P.O. Box 3654~~, [Office of Management Authority, 4401 N. Fairfax Drive, Room 700,] Arlington, Virginia 22203.

(c) *Time notice.* The Service will process all applications as quickly as possible. However, it cannot guarantee final action within the time limits the applicant requests. Applicants for endangered species and marine mammal permits should submit applications to the Office of Management Authority which are postmarked at least 90 calendar days prior to the requested effective date. Applicants for all other permits should submit applications to the issuing office which are postmarked at least 60 days prior to the requested effective date.

(d) *Fees.* (1) Unless otherwise exempted by this paragraph, applicants for issuance or renewal of permits must pay the required permit processing fee at the time of application. Applicants should pay fees by check or money order made payable to "U.S. Fish and Wildlife Service." The Service will not refund any application fee under any circumstances if the Service has processed the application. However, the Service may return the application fee if the applicant withdraws the

application before the Service has significantly processed it.

(2) Except as provided in paragraph (d)(4) of this section, the fee for processing any application is \$25.00. If regulations in this subchapter require more than one type of permit for an activity, and the permits are issued by the same office, the issuing office may issue one consolidated permit authorizing the activity. The issuing office may charge only the highest single fee for the activity permitted.

(3) A fee shall not be charged to any Federal, State or local government agency, nor to any individual or institution under contract to such agency for the proposed activities. The fee may be waived or reduced for public institutions (see 50 CFR 10.12). Proof of such status must accompany the application.

(4) *Nonstandard fees.*

Marine Mammal (Section 18.31)... 100

(e) *Abandoned or incomplete applications.* Upon receipt of an incomplete or improperly executed application, or if the applicant does not submit the proper fees, the issuing office will notify the applicant of the deficiency. If the applicant fails to supply the correct information to complete the application or to pay the required fees within 45 calendar days of the date of notification, the Service will consider the application abandoned. The Service will not refund any fees for an abandoned application.

§ 13.12 General information requirements on applications for permits.

(a) General information required for all applications. All applications must contain the following information:

(1) Applicant's full name, mailing address, telephone number(s), and,

(i) If the applicant is an individual, the date of birth, height, weight, hair color, eye color, sex, and any business or institutional affiliation of the applicant related to the requested permitted activity; or

(ii) If the applicant is a corporation, firm, partnership, association, institution, or public or private agency, the name and address of the president or principal officer and of the registered agent for the service of process;

(2) Location where the requested permitted activity is to occur or be conducted;

(3) Reference to the part(s) and section(s) of this subchapter B as listed in paragraph (b) of this section under which the application is made for a permit or permits, together with any additional justification, including supporting documentation as required by the referenced part(s) and section(s);

(4) If the requested permitted activity involves the import or re-export of wildlife or plants from or to any foreign country, and the country of origin, or the country of export or re-export restricts the taking, possession, transportation, exportation, or sale of wildlife or plants, documentation as indicated in § 14.52(c) of this subchapter B;

(5) Certification in the following language:

I hereby certify that I have read and am familiar with the regulations contained in title 50, part 13, of the Code of Federal Regulations and the other applicable parts in subchapter B of chapter I of title 50, Code of Federal Regulations, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to the criminal penalties of 18 U.S.C. 1001.

(6) Desired effective date of permit except where issuance date is fixed by the part under which the permit is issued;

(7) Date;

(8) Signature of the applicant; and

(9) Such other information as the Director determines relevant to the processing of the application.

(b) *Additional information required on permit applications.* As stated in paragraph (a)(3) of this section certain additional information is required on all applications. These additional requirements may be found by referring to the section of this subchapter B cited after the type of permit for which application is being made:

<u>Type of permit</u>	<u>Section</u>
Feather import quota [Wild bird conservation]	15.22
Importation or entry ...	15.25
Injurious wildlife	
Importation or shipment ...	16.22
Endangered wildlife and plant permits:	
Similarity of appearance ...	17.52
Scientific, enhancement of propagation or survival, incidental taking for wildlife...	17.22
Scientific, propagation, or survival for plants ...	17.62
Economic hardship for wildlife ...	17.23
Economic hardship for plants ...	17.63
Threatened wildlife and plant permits:	
Similarity of appearance ...	17.52
General for wildlife ...	17.32
American alligator--buyer or tanner...	17.42(a)
General for plants	17.72

Marine mammals permits:	
Scientific research	18.31
Public display	18.31
Endangered Species Convention permits...	23.15

Subpart C -- Permit Administration

§ 13.21 Issuance of permits.

(a) No permit may be issued prior to the receipt of a written application therefor, unless a written variation from the requirements, as authorized by § 13.4, is inserted into the official file of the Bureau. An oral or written representation of an employee or agent of the United States Government, or an action of such employee or agent, shall not be construed as a permit unless it meets the requirements of a permit as defined in 50 CFR 10.12.

(b) Upon receipt of a properly executed application for a permit, the Director shall issue the appropriate permit unless:

(1) The applicant has been assessed a civil penalty or convicted of any criminal provision of any statute or regulation relating to the activity for which the application is filed, if such assessment or conviction evidences a lack of responsibility.

(2) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application;

(3) The applicant has failed to demonstrate a valid justification for the permit and a showing of responsibility;

(4) The authorization requested potentially threatens a wildlife or plant population, or

(5) The Director finds through further inquiry or investigation, or otherwise, that the applicant is not qualified.

(c) *Disqualifying factors.* Any one of the following will disqualify a person from receiving permits issued under this Part.

(1) A conviction, or entry of a plea of guilty or nolo contendere, for a felony violation of the Lacey Act, the Migratory Bird Treaty Act, or the Bald and Golden Eagle Protection Act disqualifies any such person from receiving or exercising the privileges of a permit, unless such disqualification has been expressly waived by the Director in response to a written petition.

(2) The revocation of a permit for reasons found in §13.28 (a)(1) or (a)(2) disqualifies any such person from receiving or exercising the privileges of a similar permit for a period of five years from the date of the final agency decision on such revocation.

(3) The failure to pay any required fees or assessed costs and penalties, whether or not reduced to judgement disqualifies such person from receiving or exercising the privileges of a permit as long as such moneys are owed to the United States. This requirement shall not apply to any civil penalty presently subject to administrative or judicial appeal; provided that the pendency of a collection action brought by the United States or its assignees shall not constitute an appeal within the meaning of this subsection.

(4) The failure to submit timely, accurate, or valid reports as required may disqualify such person from receiving or exercising the privileges of a permit as long as the deficiency exists.

(d) *Use of supplemental information.* The issuing officer, in making a determination under this subsection, may use any information available that is relevant to the issue. This may include any prior conviction, or entry of a plea of guilty or nolo contendere, or assessment of civil or criminal penalty for a violation of any Federal or State law or regulation governing the permitted activity. It may also include any prior permit revocations or suspensions, or any reports of State or local officials. The issuing officer shall consider all relevant facts or information available, and may make independent inquiry or investigation to verify information or substantiate qualifications asserted by the applicant.

(e) *Conditions of issuance and acceptance.* (1) Any permit automatically incorporates within its terms the conditions and requirements of Subpart D of this part and of any part(s) or section(s) specifically authorizing or governing the activity for which the permit is issued.

(2) Any person accepting and holding a permit under this Subchapter B acknowledges the necessity for close regulation and monitoring of the permitted activity by the Government. By accepting such permit, the permittee consents to and shall allow entry by agents or employees of the Service upon premises where the permitted activity is conducted at any reasonable hour. Service agents or employees may enter such premises to inspect the location; any books, records, or permits required to be kept by this Subchapter B; and any wildlife or plants kept under authority of the permit.

(f) *Term of permit.* Unless otherwise modified, a permit is valid during the period specified on the face of the permit. Such period shall include the effective date and the date of expiration.

(g) *Denial.* The issuing officer may deny a permit to any applicant who fails to meet the issuance criteria set forth in this section or in the part(s) or section(s) specifically governing the activity for which the permit is requested.

§ 13.22 Renewal of permits.

(a) *Application for renewal.* Applicants for renewal of a permit must submit a written application at least 30 days prior to the expiration date of the permit. Applicants must certify in the form required by § 13.12(a)(5) that all statements and information in the original application remain current and correct, unless previously changed or corrected. If such

information is no longer current or correct, the applicant must provide corrected information.

(b) *Renewal criteria.* The Service shall issue a renewal of a permit if the applicant meets the criteria for issuance in § 13.21(b) and is not disqualified under § 13.21(c).

(c) *Continuation of permitted activity.* Any person holding a valid, renewable permit, who has complied with this section, may continue the activities authorized by the expired permit until the Service has acted on such person's application for renewal.

(d) *Denial.* The issuing officer may deny renewal of a permit to any applicant who fails to meet the issuance criteria set forth in § 13.21 of this part, or in the part(s) or section(s) specifically governing the activity for which the renewal is requested.

§ 13.23 Amendment of permits.

(a) *Permittee's request.* Where circumstances have changed so that a permittee desires to have any condition of his permit modified, such permittee must submit a full written justification and supporting information in conformity with this part and the part under which the permit was issued.

(b) *Service reservation.* The Service reserves the right to amend any permit for just cause at any time during its term, upon written finding of necessity.

(c) *Change of name or address.* A permittee is not required to obtain a new permit if there is a change in the legal individual or business name, or in the mailing address of the permittee. A permittee is required to notify the issuing office within 10 calendar days of such change. This provision does not authorize any change in location of the conduct of the permitted activity when approval of the location is a qualifying condition of the permit.

§ 13.24 Right of succession by certain persons.

(b) In order to secure the right provided in this section the person or persons desiring to continue the activity shall furnish the permit to the issuing officer for endorsement within 90 days from the date the successor begins to carry on the activity.

(CFR 10/1/97)

EXCEPTIONS, PERMITS, AND CERTIFICATIONS -- EXCERPTS FROM 50 CFR 23 -- ENDANGERED SPECIES CONVENTION

Subpart A -- Introduction

§ 23.1 Purpose of regulations.

(a) The regulations in this part implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249.

(b) The regulations identify those species of wildlife and plants included in appendix I, II or III to the Convention.

§ 23.2 Scope of regulations.

(a) The regulations of this part apply only to wildlife and plants listed in appendix I, II or III to the Convention, listed herein in § 23.23 for the convenience of the public. It should be noted that many species listed in appendix I, II or III are also listed in part 17 (endangered and threatened species) or part 18 (marine mammals), and are subject to additional regulations in those parts or in part 216 (marine mammals) or parts 217-225 (endangered and threatened species) for species under jurisdiction of the National Marine Fisheries Service.

§ 23.3 Definitions.

In addition to the definitions contained in parts 10 and 17 of this subchapter, and unless the context requires otherwise, in this part:

Appendix I means the list of wildlife and plants called "Appendix I" and attached to the Convention (see § 23.23 for the list).

Appendix II means the list of wildlife and plants called "Appendix II" and attached to the Convention (see § 23.23 for the list).

Appendix III means the list of wildlife and plants called "Appendix III" and attached to the Convention (see § 23.23 for the list).

Convention means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249.

Management Authority means a national management authority officially designated by a party to implement the present Convention, including the granting of permits or certificates for Convention purposes on behalf of the party.

Party means a country for which the Convention has entered into force, by virtue of ratification or accession.

Re-export means export of wildlife or plants that have previously been imported.

United States means all of the several states, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

§ 23.4 Parties to the Convention.

[A list of the names and addresses of the management authorities for specific countries is available from the Office of Management Authority, U.S. Fish and Wildlife, 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203, 1(800) 358-2104 upon request.]

Subpart B -- Prohibitions, Permits and Exceptions

§ 23.11 Prohibitions.

(a) Unless the requirements in this part 23 are met, or one of the exceptions in this part 23 is applicable, it is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, solicit another to commit, or cause to be committed any of the acts described in paragraphs (b) through (d) of this section.

(b) *Import.* (1) It is unlawful to import into the United States any wildlife or plant listed in appendix I, II or III (see § 23.23) from any foreign country.

(2) It is unlawful to import directly into the United States any wildlife or plant listed in appendix I or II (see § 23.23) taken from the sea beyond the jurisdiction of any country.

(c) *Export.* It is unlawful to export from the United States any wildlife or plant listed in appendix I, II or III (see § 23.23).

(d) *Re-export.* It is unlawful to re-export from the United States any wildlife or plant listed in appendix I, II or III (see § 23.23).

(e) *Possession.* It is unlawful for any person subject to the jurisdiction of the United States to possess any wildlife or plant listed in appendix I, II or III imported into the United States, or exported or re-exported from the United States contrary to the provisions of the Convention or this part 23.

§ 23.12 Requirements.

(a) *Import -- (1) Appendix I.* (i) In order to import into the United States any wildlife or plant listed in Appendix I from any foreign country, a United States import permit, issued pursuant to § 23.15, and a valid foreign export permit issued by the country of origin or a valid foreign re-export certificate issued by the country of re-export must be obtained prior to such importation.

(ii) In order to import directly into the United States any wildlife or plant listed in appendix I taken from the sea beyond the jurisdiction of any country, a United States import permit issued pursuant to § 23.15 must be obtained prior to such importation.

(2) *Appendix II.* (i) In order to import into the United States any wildlife or plant listed in appendix II from any foreign country, a valid foreign export permit issued by the country of origin, or a valid foreign re-export certificate issued by the country of re-export, must be obtained prior to such importation.

(ii) In order to import directly into the United States any wildlife or plant listed in Appendix II taken from the sea beyond the jurisdiction of any country, a United States import permit issued pursuant to § 23.15, must be obtained prior to such importation.

(3) *Appendix III.* (i) In order to import into the United States any wildlife or plant listed in appendix III from a foreign country that has listed such animal or plant in appendix III, a valid foreign export permit or re-export certificate issued by such country must be obtained prior to such importation.

(ii) In order to import into the United States any wildlife or plant listed in appendix III from a foreign country that has not listed such wildlife or plant in appendix III, a valid foreign certificate of origin or foreign re-export certificate must be obtained prior to such importation.

(b) *Export or re-export -- (1) Appendices I and II.* In order to export or re-export from the United States any wildlife or plant listed in appendix I or II, a United States export permit or re-export certificate, issued pursuant to § 23.15, must be obtained prior to such exportation or re-exportation.

(2) *Appendix III.* (i) In order to export or re-export from the United States any wildlife or plant listed in appendix III by the United States, a United States export permit or re-export certificate issued pursuant to § 23.15, must be obtained prior to such exportation or re-exportation.

(ii) In order to export or re-export from the United States any wildlife or plant listed in appendix III that has not been listed by the United States, a re-export certificate or certificate of origin, issued pursuant to § 23.15, must be obtained prior to such exportation or re-exportation.

§ 23.13 Exceptions.

(a) If any wildlife or plant listed in appendix I, II or III is also subject to the regulations in part 17 or part 18 of this subchapter, the prohibitions and exceptions in those parts and in part 23 shall apply. Exceptions in one part cannot be invoked to allow activities prohibited in another part.

(b) The prohibitions in § 23.11 (b) through (d) concerning importation, exportation and re-exportation shall not apply to wildlife or plant listed in appendix I, II or III that are being transshipped through the United States provided such wildlife or plants remain in Customs custody.

(c) The prohibitions in § 23.11 (b) through (d) concerning importation, exportation and re-exportation shall not apply to wildlife or plants when a certificate has been issued by the management authority of the country of origin or the country of re-export to the effect that the wildlife or plant was acquired prior to the date the Convention applied to it. See § 23.15 for rules on the issuance of such certificates.

(d) The prohibitions in § 23.11 (b) through (d) concerning importation, exportation and re-exportation shall not apply to wildlife or plants that are accompanying personal baggage or part of a shipment of the household effects of persons moving their residences to or from the United States: *Provided*, That this exception shall not apply to:

(1) Importation by U.S. residents of wildlife or plants listed in appendix I that were acquired outside the United States; or

(2) Importation by U.S. residents of wildlife or plants listed in appendix II that were taken from the wild in a foreign country, if that country requires export permits.

(e) Wildlife or plants listed in appendix I that have been bred in captivity or artificially propagated, for commercial activities, shall be treated as if listed in appendix II.

(f) The prohibitions in § 23.11 (b) through (d) concerning importation, exportation and re-exportation shall not apply to wildlife or plants when a certificate has been issued by the management authority of the country of export to the effect that the wildlife or plant was bred in captivity or artificially propagated, or was part of or derived therefrom. See § 23.15 for rules on the issuance of such certificates.

(g) The prohibitions in § 23.11 (b) through (d) concerning importation, exportation and re-exportation shall not apply to herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material when they are imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions that have been registered by a management authority of their country, and when a label issued or approved by such management authority is clearly affixed to the package or container. See § 23.15 for rules on registration and issuance or approval of labels.

§ 23.14 Foreign documentation.

(a) *Party countries.* Only export permits, re-export certificates, certificates of origin, or other certificates issued and signed by a management authority will be accepted as a valid foreign document from a country that is a party to the Convention.

(b) *Countries that are not parties.* The requirements in this part 23 apply to all wildlife and plants listed in appendix I, II or III to the Convention, whether the shipment is to or from a country that is party to the Convention, or to or from any other country. In the case of a shipment from a country not party to the Convention, documents containing information corresponding to that

required by the regulations in this part 23 may be accepted. Such documents may be in the form of an export or import permit, a letter from the proper authority, or any other form that clearly indicates the nature of the document. Such documents must:

(1) Be issued by an official of the country responsible for authorizing the export of such wildlife or plants;

(2) Specify the species (or taxa to the rank listed in appendix I, II or III) and give the numbers of wildlife or plants covered by the document; and

(3) Contain the following statement or its equivalent:

I, _____, (Signing official), hereby certify that the shipment of wildlife or plants covered by this document is in accordance with the laws of _____ (Country), will not be detrimental to the survival of the species in the wild, and, if living, will be transported in a manner which will minimize the risk of injury, damage to health, or cruel treatment.

§ 23.15 Permits and Certificates.

(a) In order to import, export or re-export wildlife or plants listed in appendix I, II or III that are also listed as endangered or threatened and subject to regulations in part 17 of this subchapter, the requirements in both part 17 and part 23 must be met. A single application meeting the appropriate application requirements in part 17 will also meet the application requirements in part 23.

(b) In order to import wildlife listed in appendix I, II or III that are marine mammals subject to regulations in part 18 of this subchapter, the requirements in both part 18 and part 23 must be met. A single application meeting the application requirements in part 18 will also meet the application requirements in part 23.

(c) Application requirements for permits or certificates to import, export or re-export wildlife or plants listed in appendix I, II or III that are not subject to the regulations in part 17 or part 18 of this subchapter. Applications for permits or certificates under this section must be submitted to the Director by any person subject to the jurisdiction of the United States who wishes to engage in the activity. Each application must be submitted on an official application form (Form 3-200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter, and must include, as an attachment, as much of the following information as relates to the purpose for which the applicant is requesting a permit or certificate.

(1) The scientific and common names of the species (or taxa to the rank listed in appendix I, II or III) sought to be covered by the permit, the number of wildlife or plants, and the activity sought to be authorized (such as importing, exporting, re-exporting, etc.);

(2) A statement as to whether the wildlife or plant, at the time of application, (i) is living in the wild, (ii) is living but is not in the wild, or (iii) is dead;

(3) A description of the wildlife or plant, including (i) size, (ii) sex (if known), and (iii) type of goods, if it is a part or derivative;

(4) In the case of living wildlife or plants, (i) a description of the type, size and construction of any container the wildlife or plant will be placed in during transportation; and (ii) the arrangements for watering and otherwise caring for the wildlife or plant during transportation;

(5) The name and address of the person in a foreign country to whom the wildlife or plant is to be exported from the United States, or from whom the wildlife or plant is to be imported into the United States;

(6) The country and place where the wildlife or plant was or is to be taken from the wild;

(7) In the case of wildlife or plants listed in appendix I to be imported into the United States, (i) a statement of the purposes and details of the activities for which the wildlife or plant is to be imported; (ii) a brief resume of the technical expertise of the applicant or other persons who will care for the wildlife or plant; (iii) the name, address and a description, including diagrams or photographs, of the facility where the wildlife or plant will be maintained; and (iv) a description of all mortalities, in the two years preceding the date of this application, involving any wildlife species covered in the application (or any species of the same genus or family) held by the applicant, including the causes and steps taken to avoid such mortalities; and

(8) Copies of documents, sworn affidavits or other evidence showing that either (i) the wildlife or plant was acquired prior to the date the Convention applied to it, or (ii) the wildlife or plant was bred in captivity or artificially propagated, or was part of or derived therefrom, or (iii) the wildlife or plant is an herbarium specimen, other preserved, dried or embedded museum specimen or live plant material to be imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions.

(d) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a), (b) or (c) of this section, the Director will decide whether or not a permit or certificate should be issued. In making his decision, the Director shall consider in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the proposed import, export or re-export would be detrimental to the survival of the species;

(2) Whether the wildlife or plant was acquired lawfully;

(3) Whether any living wildlife or plant to be exported or re-exported will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment;

(4) Whether any living wildlife or plant to be imported directly into the United States from the sea beyond the jurisdiction of

any country will be so handled as to minimize the risk of injury, damage to health or cruel treatment;

(5) Whether an import permit has been granted by a foreign country, in the case of proposed export or re-export from the United States of any wildlife or plant listed in Appendix I;

(6) Whether the proposed recipient of any living wildlife or plant listed in Appendix I to be imported into the United States is suitably equipped to house and care for such wildlife or plant;

(7) Whether any wildlife or plant listed in appendix I to be imported into the United States is to be used for primarily commercial activities; and

(8) Whether the evidence submitted is sufficient to justify an exception, in the case of (i) wildlife or plants that were acquired prior to the date the Convention applied to them; (ii) wildlife or plants that were bred in captivity or artificially propagated, or were part of or derived there from; or (iii) wildlife or plants that are herbarium specimens; other preserved, dried or embedded museum specimens, or live plant material to be imported, exported or re-exported as a noncommercial loan, donation or exchange between scientists or scientific institutions.

(9) Whether in the case of wildlife or plants listed in Appendix II, they are the subject of a large volume of trade and are not necessarily threatened with extinction.

(e) Permit or certificate conditions. In addition to the general criteria set forth in part 13 of this subchapter, permits or certificates issued under this section shall be subject to the following special conditions:

(1) Any permit must be presented to a Service agent at a designated port of entry upon importation into the United States or prior to exportation or re-exportation from the United States:

(2) Where appropriate and feasible, the Service may require that an identifying mark be affixed upon any wildlife or plant;

(3) In the case of wildlife or plants that are herbarium specimens, other preserved, dried or embedded museum specimens, or live plant material to be imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions, the names and addresses of the consignor and consignee must be on each package or container. The letters "CITES" (acronym for the Convention), a description such as "herbarium specimens," and the code letters assigned by the Service to the scientist or scientific institution, must be entered on the Customs declaration form affixed to each package or container.

(f) Duration of permits or certificates. The duration of permits or certificates issued under this section shall be designated on the face of the permit or certificate, but in no case will export permits be valid for longer than six months.

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